SBCivil Writ Petition No.2965/1999
(Manohar Lal v. State of Rajasthan & Ors.)

Date of Order :: 8th September, 2005

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. S.L.Jain, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

By this petition for writ a challenge is given by the petitioner to the judgment dated 16.3.1999 passed by learned Rajasthan Civil Services Appellate Tribunal, Jaipur in appeal No.277/95. By the judgment impugned learned Tribunal rejected the appeal preferred by the petitioner giving challenge to the seniority list wherein his seniority is underled by treating his transfer under order dated 17.9.1980 from Bhakra Irrigation Circle, Hanumangarh to Bikaner Irrigation Circle, Ganganagar as a transfer from one department to another department.

The controversy involved in present writ petition stands settled by this Court in the case of State of Rajasthan & Ors. v. Suresh Kumar Chhabra, SBCivil Writ Petition No.859/1993, decided today itself, wherein this Court has taken a view that transfer from one irrigation circle to another irrigation circle is not a transfer from one department to another department, as such the provisions of proviso xi-a to Rule 27 of the Rajasthan Subordinate Offices Ministerial Staff Rules, 1957

cannot be applied while determining seniority of LDCs who have been transferred from one irrigation circle to another irrigation circle of the irrigation department. In view of it learned Tribunal erred while rejecting the appeal preferred by the petitioner and by permitting the respondents to determine the seniority by treating petitioner's transfer from Bhakra Irrigation Circle, to Bikaner Irrigation Circle, Ganganagar as a transfer from one department to another department.

Accordingly, this writ petition succeeds and the same is allowed. The judgment impugned dated 16.3.1999 is quashed. The seniority list impugned is also declared illegal to the extent it reckons seniority of the petitioner from the date he was transferred from Bhakra Irrigation Circle to Bikaner Irrigation Circle, Ganganagar. The respondents are directed to reckon seniority of the petitioner from the date of his initial appointment in irrigation department.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.